

FISH AND WILDLIFE COMMISSION AGENDA ITEM COVER SHEET

Meeting Date: August 7, 2014

Agenda Item: Long Creek Instream Flow Acquisition

Division: Fisheries

Action Needed: Endorsement to Proceed

Time Needed on Agenda for this Presentation: 10 minutes

Background

In 2010, FWP found Arctic grayling present in Long Creek, a tributary to the Red Rock River immediately upstream of Lima Reservoir. Previously, Arctic grayling were believed to have been extirpated from the creek. During the summer and into the early fall, dewatering due to irrigation withdrawals negatively impacts stream flow in Long Creek, which in turn negatively impacts the fishery. The Nature Conservancy owns land along the creek which is irrigated by the most senior water right. Over the past four years, TNC and FWP have monitored streamflow and groundwater levels to assess the potential benefits of changing TNC's irrigation water rights to instream flow. The greatest benefit for TNC and FWP appears to be continuing irrigation during the spring and early summer to preserve agricultural production and irrigation return flows that benefit Long Creek later in the summer, while changing the portion of the water rights used later in the summer and early fall to instream flow during the time when dewatering is most severe. FWP has statutory authority to temporarily change leased water rights to instream flow or permanently change water rights owned by FWP to instream flow.

Public Involvement Process & Results

TNC has already discussed the possibility of changing its existing water rights to instream flow with neighbors on Long Creek. The water right acquisition agreement would be subject to final F&W Commission approval at which time the public would have an opportunity to comment. In order to change a portion of the water right to instream flow, FWP must make application to the Montana Department of Natural Resources and Conservation. This application would be noticed to the public, and potentially affected parties would have the opportunity to object to the change to instream flow. In addition, DNRC would conduct an environmental review of the proposed change.

Alternatives and Analysis

One alternative would be for FWP not to acquire the water rights and change them to instream flow. Improvements to flow-related habitat in Long Creek would be foregone. Another alternative would be for TNC to temporarily change its water right to instream flow. This alternative would require TNC to dedicate already limited staff resources to monitoring and managing the temporary change for the benefit of the public fishery.

Agency Recommendation & Rationale

FWP recommends that the Commission direct FWP to negotiate a water-right acquisition agreement with TNC. The negotiation process will set the terms of the agreement, such as whether the rights would be leased or purchased.

Proposed Motion

I move that FWP negotiate a water-right acquisition agreement with TNC for irrigation water rights along Long Creek, subject to final approval by this Commission.